

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER**

IN THE MATTER OF:

M & K, Ltd. d/b/a The Dubuque Marina, Inc.
1201 Shires Ext.
Dubuque, IA 52001-1469

**ADMINISTRATIVE
CONSENT ORDER
NO. 2009-UT-01**

UST NO. 198914977

I. SUMMARY

The Iowa Department of Natural Resources (Department) and M & K, Ltd. d/b/a Dubuque Marina, Inc. have entered into this administrative consent order (Order) for the purpose of resolving violations of the Department's underground storage tank (UST) compliance inspection rules.

For questions regarding this Order contact the following:

Relating to technical requirements:

Paul Nelson
Iowa Department of Natural Resources
502 E 9th Street
Des Moines, Iowa 50319-0034
Ph: 515/281-8779

Relating to Legal Issues:

Tamara Mullen, Attorney
Iowa Department of Natural Resources
502 E 9th Street
Des Moines, Iowa 50319-0034
Ph: 515/281-8934

II. JURISDICTION

This Order is issued pursuant to Iowa Code sections 455B.474(1)(f)(11) and 455B.476 which authorize the Director to issue any order necessary to secure compliance with Iowa Code Division IV, Part 8 and Environmental Protection Commission (Commission) rules contained in 567 Iowa Administrative Code (I.A.C.) Chapter 135. Iowa Code section 455B.109 and Commission rules at 567 I.A.C. Chapter 10 authorize the Director to assess administrative penalties up to \$10,000. Iowa Code section 17A.10 authorizes the use of informal settlements.

III. STATEMENT OF FACTS AND CONCLUSIONS OF LAW

1. Iowa Code section 455B.474(1)(i) authorizes the Commission to adopt rules to establish an UST certified compliance inspection program. Commission rule 567 I.A.C. 135.20 requires owners and operators of USTs to retain a compliance inspector certified by the Department pursuant to 567 I.A.C. Chapter 134, Part B, to complete a facility inspection and submit a report by December 31, 2007. Compliance inspections are subsequently required to be performed on a biennial basis.
2. The Dubuque Marina, Inc. has three registered USTs: an 8,000 gallon tank and two 3,000 gallon tanks.
3. On January 9, 2007, the Department mailed a letter informing Dubuque Marina, Inc. of the December 31, 2007 deadline for a compliance inspection.
4. The Department mailed a second letter on October 17, 2007 reminding Dubuque Marina, Inc. that it had not completed its inspection and that the inspection report was due no later than December 31, 2007.
5. On November 5, 2007, the Department posted a list of uninspected sites, including this site, on its webpage for compliance inspectors to contact.

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6. On June 10, 2008 the Department mailed a "Notice of Violation" letter to Dubuque Marina, Inc. for its failure to complete an inspection report and submit the report by December 31, 2007.
7. The Department received Dubuque Marina, Inc.'s compliance inspection report in November 2008, more than 11 months overdue.

IV. ORDER


1. Dubuque Marina, Inc. agrees to pay a penalty of \$1,000 to the order of the "Iowa Department of Natural Resources" within 30 days after receipt of this Order.

V. WAIVER OF APPEAL RIGHTS

Iowa Code section 455B.476 and Chapter 567 I.A.C. Chapter 7 authorize a written notice of appeal to the Commission. By signing this Order, Dubuque Marina, Inc. waives all rights to appeal.

VI. NONCOMPLIANCE

Failure to comply with this Order may result in the imposition of administrative or civil penalties and referral to the Iowa Attorney General to obtain appropriate relief pursuant to Iowa Code sections 455B.476 and 455B.477. Compliance with the terms and conditions of this Order constitutes full satisfaction of all requirements pertaining to the violations described in this Order.



RICHARD A. LEOPOLD, DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES
Dated this 15 day of Jan., 2008.



M & K, LTD., D/B/A DUBUQUE MARINA, INC.
Dated this 19 day of Dec., 2008

Dubuque Marina, Inc.: Elaine Douskey, Paul Nelson; V.C.